



California Fair Political Practices Commission

June 23, 1987

Lucille Duggan
1630 Adams, Space 63
El Centro, CA 92243

Re: Your Request for Advice
Our File No. 87-169

Dear Ms. Duggan:

We have received your letter requesting advice concerning various questions related to the consolidation of the Central Union High School District election with that of the El Centro Elementary School District and the Imperial Valley Community College District. Insofar as your letter relates to the length of terms served by school board members, the Brown Act, and other matters outside the scope of the Political Reform Act (The "Act"),^{1/} we cannot respond to your questions.

The Commission does have jurisdiction concerning conflicts of interest. In general, a conflict of interest may exist when a public official participates in a governmental decision which could affect his or her private financial interests. It is unclear from your letter whether any public officials have participated in such decisions.

Enclosed is a guide to the conflict of interest provisions of the Act. If, after reviewing this guide, you believe a violation of the Act has occurred, we encourage you to complete the enclosed complaint form and return it to our Enforcement Division at this address.

Sincerely,

Kathryn E. Donovan
Staff Counsel

Enclosure

KED:jaj

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

June 15, 1987

June 13 4:31 PM '87

Fair Political Action Commission
428 "J" Street
Suite 800
Sacramento, CA 95814

Sirs:

While it is too late to change the Central Union High School Election back to its former consolidation with the City of El Centro, the El Centro Elementary District, and the Imperial Valley College District all of which will hold their elections in November, 1987, submitted here for the Commission's attention are concerns involving that high school Board of Trustees' action, particularly as it involves 1) The appointment of Trustee Betsy Yslava and then the immediate extension of that member's term 2) Potential conflict of interest of Trustee Ted Lyon, 3) the board's arbitrary extension of a majority vote of that board when the local County Clerk cautioned that such action had a possibility of substantial increase in election costs. Our specific questions are contained in the attached copy of questions previously sent to Assemblyman Steve Peace and state Senator Marian Bergeson. Delay of this letter to you has been due to awaiting those responses, which are enclosed, along with copy of the two Assembly Bills in question.

We have additional concern that our legislature, to avoid a statute, may simply by law make any 365-day year longer or shorter to suit its purpose. That's kind of unsettling when one thinks of it, because it opens the door to potential wide abuse for avoiding statutes.

We will appreciate your response.

Sincerely,



Lucille Duggan
1630 Adams, Space 63
El Centro, CA 92243

One of these terms in question is an appointed term, appointed December, 1986 to fill an unexpired term that should have run out November, 1987, but was one of the terms also extended to November, 1988. Thus that one appointee will serve two years before the electorate even has a chance to rule on the appointment let alone register approval or disapproval of the appointee's actions as a member of the board. Is California law this permissive? Why, please?

One of the terms extended is a person who also serves on an elementary district whose students are part of the Central Union High School District, so will attend Central after 8th grade graduation. That school district, of about 590 registered voters, also moved its election to November, 1988. This particular person voted for his own extension as a member of the high school board and may have done so as well on the elementary board, and will have his term extended on both. Is California law this permissive? If yes, why, please?

The intent of the law was to save money. The Central Union High School District extended three members' terms, despite the Election Department statement that the extension to November, 1988 would result in substantial increase in election costs, and despite concerned citizens appearing before the board and apprising the board of this. What protection did the California Assembly give to voters and taxpayers to force accountability as to its actions by self-serving boards taking advantage of the law? Particularly in view of the fact that the legislature so severely restrained the Board of Supervisors, limiting that board to ruling against Resolutions to extend terms only if 1) it impacted the voting machines 2) it cost the county itself monies, that Supervisors had no avenue to protect the excessive cost to the districts or cities which those Supervisors represented.

In extending the terms of three of its board members, the Central Union High School failed to observe certain Brown Act requirements, particularly in its action to approve the Waiver to Waive the five day requirement, and as to a false and misleading statement on the Waiver itself. A small group of citizens attempted legal action against the Board in this regard. Their attorney investigated and would not take the case, saying that although the actions of the Board were self-serving, passage of AB-155 on March 2, 1987 declared any action as to the Waiver as being unnecessary therefore null and void, effectively wiping out any action citizens had in obtaining accountability. As you may well imagine, when the Assembly so permissively cossets the elected body, the avenue to recall is also useless. Why were no precautions placed in the legislation to protect the rights of voters?

The Assembly permissively allows local elected bodies to shorten or lengthen terms, as required to fill vacancies, consolidate, etc. Are there guidelines under the law beyond which that authority given to elected bodies infringes upon the rights of the voters? Or, may the board continue extending terms right up to the present four year limitation?

COMMITTEES:

CHAIRMAN:
LOCAL GOVERNMENT
CHAIRMAN:
SELECT COMMITTEE ON PLANNING
FOR CALIFORNIA'S GROWTH
VICE CHAIRMAN:
EDUCATION



COMMITTEES

AGRICULTURE AND
WATER RESOURCES
REVENUE AND TAXATION
TRANSPORTATION
PUBLIC EMPLOYMENT
AND RETIREMENT
SUBCOMMITTEE ON
AGRICULTURAL DRAINAGE
PRACTICES

California State Senate

MARIAN BERGESON

SENATOR

THIRTY-SEVENTH DISTRICT

CHAIRMAN

LOCAL GOVERNMENT COMMITTEE

April 13, 1987

Lucille Duggan
1630 Adams, Space 63
El Centro, CA 92243

Dear Ms. Duggan:

Thank you for writing and expressing your concerns on AB-2605 enacted in 1986 and AB-155 enacted earlier this year.

To the best of my knowledge, most of the concerns you raise in your letter were not addressed as these bills progressed through the Legislature. The Legislature's legal counsel indicated that neither of the measures would have a fiscal effect; consequently, neither bill was heard in a fiscal committee. In fact, the avowed purpose of the bills was to enable school districts and county offices of education to realize savings by being able to consolidate their elections with statewide primary, general, and municipal elections.

I have enclosed, for your review, copies of the Senate Floor analysis of both bills. These analyses are prepared by nonpartisan legislative staff prior to a vote being taken on bills on the floor of the Senate. As you can see from these analyses, none of the concerns you cite in your letter were raised by staff or, apparently, by opponents of these bills.

In general, I think it makes sense to consolidate elections to the extent this is possible. However, you are quite right to be concerned that during the change

Lucille Duggan
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over to consolidated elections, the potential for incumbent abuse exists. This should have been pointed out in the hearings on these bills and I appreciate your bringing it to my attention.

I hope the attached information is helpful in the preparation of your essay series.

Cordially,

A handwritten signature in cursive script, reading "Marian Bergeson". The signature is written in dark ink and is positioned above the printed name and title.

MARIAN BERGESON
Senator, 37th District

MB/srj

Enclosures

THIRD READING

AB 2605

Robinson (D), et al

7/3/86 in Senate

Majority

62-8, P. 6735, 4/24/86

SUBJECT: School districts: governing board elections

SOURCE: Author

DIGEST: This bill allows the governing board of any school district or county board of education, with the approval of the governing board to conduct member elections on the same day in which a primary, municipal, or general election is held, as specified. The election could be held not less than one month, nor more than 12 months, subsequent to the election day prescribed by existing law.

ANALYSIS: Current law permits community college districts to consolidate their trustee elections with the statewide general election.

This bill:

- 1) Authorized the governing board of any school district or county board of education to consolidate the school district or county board of education election with either the primary, municipal, or general election.
- 2) Prior to approval, the board(s) of school districts or county boards of education must provide public notice and obtain a cost effectiveness report from the county clerk.
- 3) Provides that the board of supervisors of any county in which the special district or county board of education will hold an election may deny any request for consolidation if it finds that the ballot style, voting equipment or computer capacity is such that additional elections or materials cannot be handled. If a special district or county board of

CONTINUED

education is located in more than one county, the special district or county board of education may not consolidate an election if any county in which the special district or county board of education is located denies the request for consolidation.

- 4) Should the board(s) of supervisors disapprove, it must occur by March 1st of the calendar year preceding the proposed election date.
- 5) Any such consolidated election must be held no earlier than one and no more than 12 months after the date on which the district would normally have held its election.
- 6) Terms of district governing board members shall be extended to the time of the new election date.
- 7) Does not apply to the County of San Diego because existing law has provided more flexible options for schools under a pilot project.

FISCAL EFFECT: Appropriation: No Fiscal Committee: No Local: No

SUPPORT: (Verified 7/3/86)

County Superintendent of Schools
California School Boards Association
Orange County Department of Education
Forestville Union School District Board of Trustees
Taft Union High School District
Association of California School Administrators
Cotati/Rohnert Park Unified School District
Analy Union High School District

OPPOSITION: (Verified 7/3/86)

California Teachers Association
Contra Costa County
County Supervisors Association of California (as of 5/5/86)

ARGUMENTS IN SUPPORT: According to the author, the bill is intended to permit school districts and county offices of education to realize cost savings related to consolidating their elections with the statewide primary, general, and municipal elections.

ARGUMENTS IN OPPOSITION: Teachers Association feel that school board elections are important issues in public education and should be given thorough consideration by the voters in as near a non-partisan setting as possible. Making it permissible for school boards to set elections to coincide with primary and general elections erodes that effort by diluting that important factor.

THIRD READING

AB 155

Chandler (R), et al

2/24/87 in Senate

2/3 - Urgency

69-0, P. 496 (2/23/86)

SUBJECT: Local elections

SOURCE: Yuba City Unified School District

DIGEST: This bill makes several cleanup changes to (1) AB 2605 (Robinson) of 1986 which allows the governing board of any school district or county board of education, to consolidate its elections with a primary, general, or municipal election, and (2) AB 2737 (Klehs) of 1986 relative to special district and municipal consolidated elections. It also allows county personnel of Los Angeles County and Orange County to perform certain electoral functions, either on behalf of the other, pursuant to a consolidated election of governing board members of any school district having territory in both counties.

ANALYSIS: AB 155 has the effect of clarifying AB 2605 (Robinson) and AB 2737 (Klehs) of 1986 relating to the scheduling of school district and municipal elections and to facilitate the consolidation of certain elections for school districts having territory in both the County of Los Angeles and Orange County.

AB 155 does not affect the special election being held March 17, 1987 in Orange - Los Angeles Counties.

The source of the bill found they were left ineligible for consolidating elections under existing law which this bill would correct. Also the 2/23/87 amendments to the bill incorporates provisions of AB 428 (Klehs) of 1987.

Specifics of AB 155

1. School Districts

- A. Changes the time frame whereby a resolution for establishment of consolidated elections adopted by a county board of education or

governing board of a school district must be submitted to the county board of supervisors.

Present law requires the resolutions be adopted and submitted to the board of supervisors no later than January 1 of the year preceding the calendar year in which the revised election date is to be operative.

AB 155 requires that resolutions be adopted and submitted to the board of supervisors no later than 240 days prior to the date of the currently scheduled election of the district or for the members of the county board of education.

The bill further requires the board of supervisors, within 60 days from the date of submission, to approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled or the consolidation will incur additional costs to the county.

- B. Defines the term 12 months found in provisions of law relating to consolidated elections.

Present law provides that consolidated elections must occur no more than 12 months later than the currently scheduled election.

This bill defines 12 months to mean the period from the currently scheduled school board election to the first Tuesday after the first Monday in the 12th month following the month in which the election is currently scheduled.

The requirement that the consolidated election take place within 12 months of the currently scheduled election, and limiting extension of incumbent's terms to 12 months, did not take into account the fact that an election day is sometimes more than 365 days after the election day in the prior year. In 1987, election day will be November 3, but in 1988 it will be November 8, 370 days later. The amendment takes care of this problem.

This takes care of Yuba City USD's problem.

- C. Repeals provision of law which allows the consolidation of the governing board elections of elementary, unified, high school, and community college districts with city elections. This provision has been superseded by a section of law added last year.
- D. Allows community college districts to require that its trustees general elections be held on the same day as a municipal election. Presently, trustee elections may be held on the same day as the statewide general election.

2. Los Angeles and Orange Counties

Allows county personnel of Los Angeles County and Orange County, upon agreement between those counties, to perform electoral functions, either on behalf of the other, pursuant to a consolidated election of governing board members of any school district having territory in both counties.

3. Special Districts

Defines phrase "one year" found in the law relative to extension of terms of special district officeholders whose terms would have expired prior to adoption of a resolution that an election be held on the same day as the statewide general election.

4. Provides that the above provisions would not apply to special elections.

5. Municipal Elections

A. Defines the phrase "12 months" for purposes of the law relative to where a city passes an ordinance consolidating its election with others and as a result impinges on an officeholder's term of office.

B. Removes an existing requirement that a city which has consolidated its election with a school district hold at least one election on the new date before another change of election date. Some cities consolidated their elections with school elections last year and if the school district changes its election under the 1986 law, the city may not now change its election date until after the 1988 election.

FISCAL EFFECT: Appropriation: No Fiscal Committee: No Local: No

SUPPORT: (Verified 2/24/87)

Yuba City Unified School District (source)
California School Boards Association
County Superintendents of Schools
Association of California School Administrators

OPPOSITION: (Verified 2/24/87)

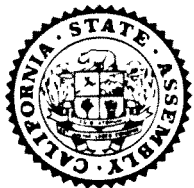
California Teachers Association

ARGUMENTS IN SUPPORT: Author's office indicates the bill makes various clarifying changes in the law in order that various school districts can become eligible for consolidating their elections with the statewide primary or general elections. AB 428 (Klehs) was incorporated to facilitate the scheduling of special district and municipal elections by defining various terms in the law.

The author responds to CTA's opposition by stating that they are opposed to existing law and the law and this bill is not mandatory upon districts.

ARGUMENTS IN OPPOSITION: CTA is opposed to consolidation of school elections because it diminishes public interest in school political leadership, and weakens public participation in the democratic process. They believe school board elections should be maintained in a nonpartisan setting. They also indicate this bill makes consolidation easier and would have the effect of postponing various school elections this year.

DW:jk 2/25/87 Senate Floor Analyses



Assembly California Legislature

STEVE PEACE
ASSEMBLYMAN

June 4, 1987

COMMITTEES:
Finance and Insurance
Rules
Utilities and Commerce
Water, Parks and Wildlife
Ways and Means
Chairman
SUBCOMMITTEE ON
WORKERS' COMPENSATION
WAYS AND MEANS SUBCOMMITTEE
ON RESOURCES AND PARKS
SELECT COMMITTEE ON LOW
LEVEL NUCLEAR WASTE

Mrs. Lucille Duggan
1630 Adams, Space 63
El Centro, California 92243

Dear Mrs. Duggan:

Thank you for your letter regarding bills on consolidation of elections. You referred to AB 155, a bill introduced by Assemblyman Chris Chandler, which was passed by the Assembly and the Senate earlier this year and was signed into law by Governor Deukmejian. That bill corrected technical problems in the law permitting local jurisdictions to consolidate their elections with the state primary or general election. This law permits a local agency which chooses to consolidate its election with a state election to extend the terms of office of current elective officials for up to one year to cover the time period between the date when they would normally have come up for reelection, and the date of the statewide election with which their election has been consolidated. Neither the existing law nor AB 155 permit a school board to extend the terms of its members for more than one year, or to extend the terms for any reason other than consolidation with statewide elections.

The purpose of this law was to permit local agencies to save money by consolidating their elections with the statewide elections. If that has not been the result in your district, the law has not operated as intended in that respect.

I am not sure how the Assembly can help you with the other problems you describe with your local officials. If you have questions on the propriety of a local official voting on a matter that affects his or her term of office, I suggest that you contact the Fair Political Practices Commission in Sacramento.

Thank you again for your letter and for your interest.

Sincerely,


STEVE PEACE